

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<hr/>	:	<b>CIVIL ACTION</b>
<b>RICHARD CURRAN,</b>	:	
	:	<b>NO. 11-5894</b>
<b>Plaintiff,</b>	:	
<b>v.</b>	:	
	:	
<b>MICHAEL J. ASTRUE, Commissioner of</b>	:	
<b>Social Security,</b>	:	
	:	
<b>Defendant.</b>	:	
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**ORDER**

**AND NOW**, this 9th day of November, 2012, upon consideration of Plaintiff's Motion for Summary Judgment or, in the Alternative, Plaintiff's Motion for Remand and Plaintiff's Brief Statement of Issues in Support of Request for Review (Document No. 9, filed January 4, 2012), and Defendant's Response to Request for Review of Plaintiff (Document No. 12, filed March 7, 2012); and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport (Document No. 15, filed September 13, 2012), and Plaintiff's Objections to the Report and Recommendation of the Magistrate Judge (Document No. 16, filed September 27, 2012), for the reasons set forth in the Memorandum dated November 9, 2012, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated September 13, 2012 is **APPROVED** and **ADOPTED IN PART** and **REJECTED IN PART**, as follows:

a. That part of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated September 13, 2012, relating to whether Curran's ability to reach is relevant is **REJECTED**;

b. That part of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated September 13, 2012, relating to whether the ALJ erred by finding that Richard Curran's mental impairments are non-severe is **APPROVED** and **ADOPTED**;

c. That part of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated September 13, 2012, relating to whether the ALJ properly relied on the Medical-Vocational Guidelines is **REJECTED**.

2. Plaintiff's Objections to the Report and Recommendation of the Magistrate Judge are **SUSTAINED IN PART, OVERRULED IN PART**, and **DISMISSED IN PART** as follows:

a. Plaintiff's first objection relating to Curran's ability to reach is **SUSTAINED IN PART**, and **OVERRULED IN PART** as follows:

i. The objection on the ground that Magistrate Judge Rapoport erred in concluding that Curran's ability to reach is irrelevant is **SUSTAINED**;

ii. The objection on the ground that the ALJ erred in finding that Curran's reaching limitation applied only to overhead reaching, and not reaching in all directions, is **OVERRULED**. The Court concludes that the ALJ's decision that Curran is limited in reaching only overhead was supported by substantial evidence.

b. Plaintiff's second objection relating to whether the whether the ALJ erred by finding that Curran's mental impairments are non-severe is **OVERRULED**;

c. Plaintiff's third objection relating to whether the ALJ's hypothetical to the vocational expert was sufficient and whether the ALJ therefore improperly relied on the Medical-Vocational Guidelines is **SUSTAINED**;

d. Plaintiff's fourth objection relating to Magistrate Judge Rapoport's final recommendation is **DISMISSED**.

3. Plaintiff's Motion for Remand is **GRANTED**. Plaintiff's Request for Review is **GRANTED** to the extent it seeks a remand and is **DENIED** in all other respects. Plaintiff's Motion for Summary Judgment is **DENIED**.

4. The last sentence of Defendant's Response to Request for Review of Plaintiff refers to a motion for summary judgment. No such motion was filed. To the extent that defendant is moving for summary judgment in Defendant's Response to Request for Review of Plaintiff, that motion is **DENIED**.

5. The case is **REMANDED** to the Commissioner of Social Security pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further proceedings consistent with the Memorandum dated November 9, 2012.

**BY THE COURT:**

/s/ Hon. Jan E. DuBois

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**JAN E. DuBOIS, J.**